

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

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|---------------|---|------------------------------|
| ERIC CRAFT, |) | |
| |) | |
| Petitioner, |) | Case No. 1:09-cv-290-SJM-SPB |
| |) | |
| v. |) | |
| |) | |
| DAVID EBBERT, |) | |
| |) | |
| Respondent. |) | |

MEMORANDUM ORDER

The instant petition for writ of habeas corpus was received by the Clerk of Court on November 23, 2009 and was referred to United States Magistrate Judge Susan Paradise Baxter for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The Report and Recommendation, filed on June 9, 2011 [20], recommends that the instant petition for writ of habeas corpus be dismissed with prejudice for abuse of the writ and because it is an improper successive habeas petition. The parties were allowed fourteen (14) days from the date of service in which to file objections. Service was made on Petitioner by certified mail at FCI-McKean, where he is currently incarcerated, and on the Respondents. No objections to the Report and Recommendation have been filed to date.

After de novo review of the petition and documents in the case, together with the Report and Recommendation, the following order is entered:

AND NOW, this 29th Day of June, 2011;

IT IS ORDERED that the instant petition for writ of habeas corpus be, and hereby is, DISMISSED with prejudice. Inasmuch as reasonable jurists would not find it debatable whether the instant petition should be dismissed as an improper successive habeas petition and an abuse of the writ, IT IS FURTHER ORDERED that no certificate of appealability shall issue.

The Report and Recommendation of Magistrate Judge Baxter, filed on June 9, 2011 [20], is adopted as the opinion of the Court.

s/ Sean J. McLaughlin

SEAN J. McLAUGHLIN
United States District Judge

Cm: All parties of record.

U.S. Magistrate Judge Susan Paradise Baxter